MISCELLANY.

Changing Names.—"When a woman marries she changes her surname in this and many other countries (though not in Spain and other Spanish-speaking countries), and usually substitutes the initial of her maiden name for the former middle initial. In England when a man is raised to the peerage his name is changed, as when John Churchill became Duke of Marlborough, or John Scott became Lord Eldon. A pope on his election always changes his name. A young man who obtained his license to practice law and was elected to the Legislature as Thomas Carter Ruffin became Chief Justice of this Court as Thomas Ruffin. In the same way Stephen G. Cleveland became Governor of New York and President as Grover Cleveland. He who graduated at college as Thomas W. Wilson became Governor of New Jersey and President of the United States as Woodrow Wilson, and Hiram U. Grant, having been accidentally misnamed in his appointment to West Point as Ulysses S. Grant, bore that name as commander in chief of the armies and President of the United States. Under his nom de plume Mark Twain became famous, but was comparatively unknown as Samuel L. Clemens; so Voltaire's real name was Arouet, and Moliere's true name was Poquelin. Among numerous other instances was the private soldier, Victor Perrin, who became Marshall Victor, and another of Napoleon's marshals, Jean Baptiste Jules Bernadotte, ascended the throne of Sweden and Norway as Charles XIV, John. These and numerous other cases instance the correctness of the common-law rule that it is the identity of the person and not the identity of the name which governs." Dissenting opinion of Chief Justice Clark in Evans *v.* Brendle, 173 N. C. 149.

The Legal Status of the Lead Pencil.—A signature to a lease in lead pencil is held sufficient in the Missouri case of Kleine *v.* Kleine, 219 S. W. 610, and the court in its opinion refers to the "erroneous view, entertained by many laymen, that a deed cannot be signed with a lead pencil, but must be signed with pen and ink." In the note which accompanies this decision in 8 A. L. R. 1339, it is stated that, so far as transactions of private business are concerned, the fact that the signature to an instrument was made with a lead pencil will not affect its validity.

The reasons which have induced the courts to approve or at least tolerate the use of a lead pencil in business transactions have been detailed in the course of their decisions. It is said in Stone *v.* Sprague, 24 N. H. 309, that "the law extends great indulgence to looseness and inaccuracy in writings necessary to the transaction of the common business of life, propter simplicitatem laicorum. Otherwise the fair intention of the parties would frequently be defeated by their want of acquaintance with the forms of business, and by the haste

n which such writings are often necessarily drawn and executed, at times and in places when and where the means of making them in the best manner and with the best materials are not at hand."

The subject is discussed at length in Clason *v.* Bailey, 14 Johns. 484, where it is observed: "To write is to express our ideas by letters visible to the eye. The mode or manner of impressing those letters is no part of the substance or definition of writing. A pencil is an instrument with which we write without ink. The ancients understood alphabetic writing as well as we do, but it is certain that the use of paper, pen, and ink was for a long time unknown to them. In the days of Job, they wrote upon lead with an iron pen.

"The ancients used to write upon hard substances, as stones, metals, ivory, wood, etc., with a style or iron instrument. The next improvement was writing upon waxed tables; until at last paper and parchment were adopted, when the use of the calamus or reed was introduced. The common law has gone so far to regulate writing as to make it necessary that a deed should be written on paper or parchment, and not on wood or stone. This was for the sake of durability and safety; and this is all the regulation that the law has prescribed. The instrument or the material by which the letters were to be impressed on paper or parchment has never yet been defined; this has been left to be governed by public convenience and usage; and as far as questions have arisen on this subject, the courts have, with great latitude and liberality, left the parties to their own discretion. * * * A lead pencil is generally the most accessible and convenient instrument of writing on such occasions, and I see no good reason why we should wish to put an interdict on all memoranda written with a pencil. I am persuaded it would be attended with much inconvenience and afford more opportunities and temptation to parties to break faith with each other than by allowing the writing with a pencil to stand. It is no doubt very much in use."

"However," comments the court in Myers *v.* Vanderbelt, 84 Pa. 510, 24 Am. Rep. 227, "no prudent scrivener will write a will in pencil unless under extreme circumstances. Whenever so written, any appearance of alteration should be carefully scrutinized. Yet, inasmuch as the statute is silent on the question, we cannot say that the mere fact that it is written or signed in pencil thereby makes it invalid. It is nevertheless a writing known and acknowledged as such by the authorities and fulfills the requirements of the statute."

But it should be noted that, in the case of a signature required by law to be made by a public officer, signatures with lead pencil have generally been held to be insufficient.—*Case and Comment.*

Contributory Negligence as Defense to Criminal Prosecution.—A sheriff in whose hands a capias had been placed saw the man whom he was to arrest drive through town in an automobile. He learned

that he would probably go back over the same road, and waited for the return trip. When he saw the automobile approaching he stepped into the street and waved for the driver to stop, but he failed to obey. The machine was traveling about 12 miles an hour. The sheriff stepped aside, and as the car was passing mounted the running board and told the driver he was under arrest. He then took hold of the steering wheel, and endeavored to stop the car, the speed of which was greatly increased, and, after running about 800 feet, it collided with an iron bridge, was wrecked, and the sheriff injured so badly that he died a few hours later. The driver was arrested and convicted of murder in the second degree.

Upon appeal to the Supreme Court of Appeals of West Virginia in State *v.* Weisengoff, 101 Southeastern Reporter, 450, Judge Williams wrote an opinion in which, in ruling on the defense of contributory negligence, he said: "It is no defense that deceased's efforts in trying to get control of the steering wheel may have contributed to the cause of his death. Contributory negligence has no application to a criminal prosecution for homicide. Defendant was acting unlawfully, whereas deceased was acting lawfully, and was killed, not in trying to mount the running board, but after he had safely gotten upon it, by defendant's refusing to stop and by his reckless driving, and the fact that the deceased's efforts may have contributed to cause the machine to collide with the bridge is no defense."

An Historic People.—In Munick *v.* City of Durham, 106 S. E. 655, Chief Justice Clark of the Supreme Court of North Carolina said:

"When Disraeli, later Prime Minister of the British Empire, was reproached in Parliament for being a Jew, he made the memorable reply, 'When the ancestors of the right honorable gentleman were painted savages roaming naked in the forests of Germany, my ancestors were princes in Israel and high priests in the temple of Solomon.' Every voter, every witness, and every official takes an oath upon a sacred book, every sentence and word in which was written by a Jew. When the Savior was incarnated after the flesh he was of the tribe of Judah, and His mother, whom a great church holds immaculate, if not divine, has her name borne by millions throughout the civilized world."

The Title Examiner—Some Fragmentary Reflections.—In the interval between the time when Jehovah spoke through his servant, Moses, saying, "The land shall not be sold forever; for the land is mine; for ye are strangers and sojourners with me," and these latter days, when men contend no less unequivocally that the earth is the property of them, their heirs and assigns, forever, society has produced many means, instrumentalities, and agencies for the maintenance of the rights of those who have, against those who have not.

Of these, none is more helplessly and abjectly a cog in the machine

than the title examiner. The emotions and passions that direct the course of majorities, and enrage minorities, pass him by. Whatever considerations may sway legislatures and courts, he proceeds and reverses with them. Where others lead, he follows. He is the glorifier of regularity, the slave of precedent, the humble defender of rights that are vested.

He is in many respects a pitiable figure. Obscurity is his portion, and oblivion his reward. He is neither an iconoclast nor a constructionist; neither a comforter nor a despoiler. Inclination thereto has long since disappeared. Under the law of economic determinism, his services, his independence, his very soul, have been foreclosed upon and sold to the highest bidding trust company. Its routine has destroyed his vision, withered his sensibilities, and paralyzed his grasp.

From his little niche he looks dispassionately out upon a world conveniently subdivided into townships, sections, quarter sections, lots, and fractions. In and upon these, individuals may carry on their unavailing struggles against an implacable fate, tragedies may be enacted, careers blasted, hearts may bubble over in joy or be broken in grief; but no such matters come within the purview of the title examiner. From the fateful day when he first thumbs the leaves of an abstract to the last of his days of usableness, he maintains the even tenor of his ways, unaffected by aught but the state of the records.

Nature, as such, evokes no transports from him. Rivers, lakes, and mountains are but interruptions of platted and surveyed areas, entailing confusion and overlapping of descriptions. Shores are either meandered or not meandered. Lakes belong either to private owners or to the public. The maple sapling and the gnarled oak are interesting in so far as they may mark the boundary or corner of some owner's domain.

The surge of the currents in our rivers and the lapping of waves upon shallow beaches suggest either accretion or reliction. He sees no grandeur, hears no mighty cadences, feels no lyric thrills. For him the world is indeed "flat, stale, and unprofitable," a place of conflicting and interchanging property interests in which he has neither part nor parcel.

And it is well for the trust company that his mind is not distracted by the outside world. The interests of clients must be guarded. Accordingly, partitioned off from his coemployees, visiting investors and borrowers, ensconced behind statutes, decisions, briefs, and plats, sits this censor of securities and renders his decisions as to the sufficiency or insufficiency of titles.

No Cerberus of the infernal regions ever guarded portals with greater assiduity and severity than he guards trust funds against insecure titles. In endless succession the abstracts pass through his hands, while he, clothed by his master with limited authority for that

purpose, calls for deeds of warranty and quitclaim, releases, waivers, affidavits, certified copies, originals, and what not.

He scents the weaknesses and feels the infirmities in titles impartially calling attention to them all. He wields the scalpel, but applies no balm. His functions are strictly limited, but within his sphere he is indispensable—to the trust company.—*The Docket.*

Precedent Embalms a Principle.—In State *v.* Knight, 169 N. C. 333, the court, by Allen, J., said: "When this case is decided it becomes a precedent, and as said by Disraeli, 'A precedent embalms a principle.' If the principle is not safe and sound, we may well adopt the words of Portia, who replied, when urged to do a little wrong that great good might come of it.

'Twill be recorded for a precedent;
And many an error by the same example,
Will rush into the State. It cannot be."

The Crime of Aiding a Suicide.—The criminal guilt to be attached to the abetting of suicide is perhaps as confusing a question as the law can present; and when the aid consists merely in furnishing the means of death if desired, a legal question is presented no less interesting than the ethical problem. In the recent case of People *v.* Robers (1920, Mich.), 178 N. W. 690, the wife of the accused was hopelessly ill and had tried to commit suicide. After she had begged her husband to give her poison, he mixed Paris Green and water in a cup and placed it within her reach. She drank it and died from the effect of the poison. The husband, confessing his participation to this extent, was held guilty of murder in the first degree.

The court attempted partially to avoid the intricacies of the real question involved by relying upon a statute defining murder by means of poison,[1] for the status of suicide as a crime is apparently unsettled in Michigan. So that the criminal act charged was not aiding suicide in administering poison.

The question is not, however, to be so easily dismissed. Intentionally to cause another's death by poisoning is unquestionably murder in every state, and it is difficult to understand why the statute in question should remove the entire case from consideration in the light of common-law principles. To abet a suicide [2] has been held to

[1] Mich. Comp. Laws, 1915, sec. 15192: "All murder which shall be perpetrated by means of poison, or lying in wait, or any other kind of wilful, deliberate and premediated killing * * * shall be deemed murder of the first degree."

[2] There are apparently four classes of abetting in suicide cases; (a) inciting, (b) by a suicide pact, (c) by passive aid, and (d) by non-prevention. The classification of cases according to the degree of criminality does not appear to correspond to the classes of abetting. The English cases are classified nearly in this way.

be murder in the first degree,[3] murder in the second degree,[4] manslaughter,[5] or no crime at all.[6] The accused supplied the immediate means for his wife to commit suicide, but the act was hers without advice or other encouragement from him, and to convict him of administering poison causing death is to imply a considerable degree of positive and personal participation on his part hardly warranted by the facts.[7] The wording of the statute does not make the administering of poison murder in the first degree; indeed it is only "all murder which shall be perpetrated by means of poison," and thus the instant case assumes that murder has been committed and that as the means used was poison, it is murder in the first degree.

But does this not beg the whole question? Can the fundamental problem be solved without facing the issue of what crime suicide is and what criminal responsibility attaches to aiding its consummation?

At common law suicide was undoubtedly self-murder.[8] To force another to kill himself was murder on the part of the compeller, and

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[3] Commonwealth *v.* Bowen (1816), 13 Mass. 356; Blackburn *v.* State (1872), 23 Ohio, 146; Reg. *v.* Alison (1838, Cent. Cr. Ct.) 8 Car. & P. 418; Vaux & Ridley's Case (1665, K. B.) Kelyng, 52; Reg *v.* Stormouth (1897), 61 J. P. 729; Reg. *v.* Jessop (1887), 10 CRIM. L. MAG. 862; Rex *v.* Russell (1832, K. B.), 1 Moody C. C. 356; State *v.* Levelle (1891), 34 S. C. 120, 13 S. E. 319.

[4] Commonwealth *v.* Hicks (1904), 118 Ky. 637, 82 S. W. 265; State *v.* Jones (1910), 86 S. C. 17, 67 S. E. 160.

[5] Commonwealth *v.* Mink (1877), 123 Mass. 429; People *v.* Kent (1903), 41 Misc. 191, 83 N. Y. Supp. 948; State *v.* Webb (1909), 216 Mo. 378, 115 S. W. 998; State *v.* Ludwig (1879), 70 Mo. 412.

[6] Grace *v.* State (1902), 44 Tex. Cr. App. 101; Saunders *v.* State (1908), 54 Tex. Cr. App. 101. The facts in this latter case are nearly identical with those of the instant decision.

[7] See Larremore, Suicide and the Law (1904), 17 HARV. L. REV. 331, 337; see Kenner, Criminal Liability of an Inciter or Abettor of Suicide (1905), 61 CENT. L. J. 406; Commonwealth *v.* Bowen, *supra* note 3, where the jury must have found the advice was the procuring cause of the suicide's death in order to convict the accused.

[8] 1 Hale P. C. 411-417; 2 *id.* 62; 4 Blackstone, *Commentaries*, 95, 189, 190; Hales *v.* Petit (1563, Q. B.), 1 Plowd. 253 (where the opinion of Brown, J., apparently suggested to Shakespeare the grave-diggers' argument about suicide in Hamlet); Rex *v.* Dyson (1823, K. B.) Rus. & Ry. 523; Commonwealth *v.* Mink, *supra* note 5; see (1914), 49 LAW. J. 95; (1891), 55 J. P. 115; Mikell, *Is Suicide Murder* (1903), 3 COL. L. REV. 379, where the subject is very ably reviewed. But American jurisdictions are at complete variance on the subject. For instance, to attempt suicide is a felony, but to succeed no crime at all. Darrow *v.* Family Fund Soc. (1889), 116 N. Y. 542, 22 N. E. 1093; *contra*, May *v.* Pennell (1906), 101 Me. 516, 64 Atl. 885. Suicide is not a crime in Illinois. Royal Circle *v.* Acherrath (1903), 204 Ill. 549, 68 N. E. 492. See 8 R. C. L. 351; where it is suggested that suicide cannot be a crime in the united States because of its entailing at common law a forfeiture of goods and a degrading burial. But suicide is probably a *malum in se* and the nature of its penalty does not change the nature of the offense.

the doctrine was extended to include suicide due to persuasion, advice, or mutual agreement.[9] But if the abettor were not present at the act which caused the death, then he would be an accessory before the fact and escape punishment, for he could not be tried until the principal was first tried and convicted.[10] The effect of this rule has been avoided, however, by treating the accessory as the principal, whether present or not, on the theory that the act causing death was his act.[11] Abetting a suicide is then murder.

But thus to hold the abettor as principal must not blind us to the important and logical difference between an act and its consequences;[12] for having decided the status of suicide, it would be easy to stretch the "principal's" participation to absurd extremes. Thus the instant case either holds that the "act" of swallowing the poison was the "act" of the accused,[13] or that a close causal con-

[9] See Kenner, *op. cit.* note 7; see 66 L. R. A. 304 for collected cases in point; see 1 Wharton, *Criminal Law* (11th ed. 1912), 744.

[10] Reg. *v.* Leddington (1839, Q. B.) 9 Car. & P. 79; Rex *v.* Russell, *supra* note 3; see Kenner, *op. cit.* note 7. The point is discussed in nearly every case of abetting suicide. By statutes in England and several American jurisdictions, advising another to commit suicide is made a substantive indictable offense. See N. Y. Penal Code, 1882, sec. 175; Ark. Rev. St. ch. 44, div. 3, art. 2, sec. 4; Calif. Penal Code, sec. 400; Minn. Comp. Laws, ch. 94, sec. 14; Kan. Comp. Laws, ch. 31, sec. 13, 326; see Blackburn *v.* State, *supra* note 3. It does not appear in the instant case whether the accused was present or absent when his wife drank the poison.

[11] Blackburn *v.* State, *supra* note 3. The abolition of the distinction between aiders and accessories in some jurisdictions has made such a party guilty of murder for advising a suicide, whether absent or present at the time of the act, provided the suicide is the result of his advice. Commonwealth *v.* Hicks, *supra* note 4; see 37 Cyc. 521. Such a statute existed in Michigan, although the instant case makes no mention of it. Mich. Comp. Laws, 1857, sec. 9545. It will be noticed, of course, that for the statute to apply, a felony must of necessity have been committed. It is also important to decide whether the act of the suicide is the act of the abettor, or the act of the suicide. As here, for instance, one might be a crime, but the other no crime at all.

[12] See Cook, *Act, Intention, and Motive in the Criminal Law* (1917), 26 YALE LAW JOURNAL, 645; the writer makes a careful analysis of the word "act" as defined by the courts and text-writers, and argues forcefully and convincingly for a restriction in the breadth of its meaning. Thus, the word "act" as used by the courts in the present connection must mean to include its consequences, and that no logical distinction can be made between the act of killing a man and the act of doing something which results (however remotely) in his death. See Salmond, *Jurisprudence* (16th ed. 1920) 327. If we mean by an act a muscular movement that is willed, the theory of holding the accessory as a principal is wholly untenable; but in reliance on the usual elastic meaning of the word convictions are being secured when by exact analysis their lack of legal foundation would be disclosed.

[13] See Withers, *Status of Suicide as a Crime* (1914), 19 VA. L. REV. 641, 645; Burnett *v.* People (1903), 204 Ill. 208, 68 N. E. 505: "The

nection existed between his act of furnishing the poison and his wife's act of drinking it.[14] Furnishing an instrument to a criminal, if one knows a crime will be committed with it, is perhaps a criminal offence. But unless the "act" contemplated is criminal, what crime has been committed in furnishing the instrument? Or how can the accessory-principal be guilty of a crime when the actual principal is guilty of none, both having done the same "act"?

In any light the instant case has stretched the doctrine of the abettor's guilt to an extraordinary length, and beyond any of its precedents.[15] The court based its decision upon a statute, but its authorities, analogy, and reasoning are those of a steady development in the law of suicide. To call it "homicide" and entirely disregard the wilful, independent, intervening suicide of the other party is to ignore the man factor in the case. The result in such a decision may be eminently just and merited, but it is not the sole consideration; the court's reasoning is of material importance, particularly in such a comparatively uncharted phase of the law as suicide, where every decision is likely to mark a definite step.

The incurable suffering of the suicide, as a legal question, could hardly affect the degree of criminality, although perhaps it might palliate the atrocity of the crime from a moral point of view. The life

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act of the principal is the act of the accessory" and "it becomes immaterial what was the character of the crime committed by the principal or whether there was any crime," for the principal is dead. The instant case cites this decision as authority and its reasoning is exactly analogous although not so explicit. Thus whether suicide is a crime or not is "immaterial." It is sufficient that "administering" poison is murder. By the court's own reasoning one is led to the conclusion that suicide must be murder; for how else does the statute apply? The "act" of the wife in administering poison to herself was the "act" of the accused; if this was not murder, how can he be held guilty?

[14] See (1909) 12 LAW NOTES, 163, where facts similar to those in the instant case are supposed and the present result questioned: "In order for one who incites to suicide to be guilty of murder, a causal connection must exist between the incitement and the suicide." See State *v.* Jones, *supra* note 4, for a discussion of the necessity of causal connection.

[15] See Larremore, *op. cit.* note 7: "It is doubtful whether the doctrine * * * could be stretched to cover instances where the project of suicide originated with the suicide himself, and the abettor went no further than to encourage and assist." The present decision is based for the most part on Blackburn *v.* State, *supra* note 3, where there was strong evidence of coercion. But the Ohio court said "It is immaterial whether the party taking the poison took it willingly, intending to commit suicide, or was overcome by force, or overreached by fraud," and the words of that decision are in perfect accord with the holding in the instant case. In the result, however, if not in the doctrine stated, the present decision is more extreme than any other of its kind. See (1920), 19 MICH. L. REV. 98.

of those to whom life has become a burden is as much to be protected by law as the life of those in its full tide and enjoyment; if discriminations are to be made as to the amount of punishment due, they must be made by executive clemency or legislative provision.[16]—*Yale Law Journal*

Uniform Declaratory Judgments Act.—The Committee on Declaratory Judgments, of which Hon. James R. Caton, of Alexandria, Va., is the chairman, in its report to the thirty-first annual meeting of the National Conference of Commissioners on Uniform State Laws held in Cincinnati, August 24th-30th last, presented the following final tenative draft of a Uniform Declaratory Judgments Act:

Section 1. [Scope.] Courts of record, within their respective jurisdictions, are hereby empowered to declare rights and other legal relations on petition for such declaration, whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a merely declaratory judgment, order or decree is prayed for. The declaration may be either affirmative or negative in form and effect; and such declaration shall have the force of a final judgment, order or decree.

Section 2. [Power to Construe, etc.] Any person interested under a deed, will, contract, or other written instrument, or whose rights or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise, and obtain a declaration of rights or other legal relations thereunder.

Section 3. [Before Breach.] A contract may be construed before there has been a breach thereof.

Section 4. [Executor, etc.] Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may have a declaration of rights or other legal relations in respect thereto:

(a) to ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or

(b) to direct the executors, administrators, or trustees, to do or abstain from doing any particular act in their fiduciary capacity; or

(c) to determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings or instruments.

Section 5. [Enumeration not exclusive.] The enumeration in Sections 2, 3 and 4 does not limit or restrict the exercise of the gen-

[16] See Blackburn *v.* State, *supra* note 3; see (1920), 7 VA. L. REV. 147.

eral powers conferred in Section 1 in cases where there is a controversy which may be settled or an uncertainty which may be removed by a declaratory judgment, order or decree.

Section 6. [Discretionary.] The court may refuse to render or enter a declaratory judgment, order or decree where such judgment, order or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding or where at the time under all the circumstances it is not necessary and proper.

Section 7. [Procedure.] Declaratory judgments, orders and decrees may be obtained as other judgments, orders and decrees and may be reviewed on writ of error or appeal.

Section 8. [Supplemental Relief.] Further relief based on a declaratory judgment, order or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment, order or decree, to show cause why further relief should not be granted forthwith.

Section 9. [Jury Trial.] When an action or proceeding under this Act shall involve the determination of an issue of fact triable by a jury, such issue may be submitted to a jury in the form of interrogatories, with proper instructions by the court, whether a general verdict be rendered or required or not.

Section 10. [Costs.] The parties to a proceeding to obtain a declaratory judgment, order or decree, may stipulate with reference to the allowance of costs and in the absence of such stipulation the court may make such award of costs as may seem equitable and just.

Section 11. [Parties.] When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a statute, the Attorney-General of the state shall, before judgment is entered, be served with a copy of the petition and shall be entitled to be heard. In any proceeding which involves the validity of a municipal ordinance, or franchise, such municipality shall be duly served with a copy of the petition, and shall be entitled to be heard, and if the ordinance or franchise is alleged to be unconstitutional, the Attorney-General of the state shall also be served with a copy of the petition and be entitled to be heard.

Section 12. [Construction.] This Act is declared to be remedial; its purpose is to settle controversies and to afford relief from uncertainty and insecurity with respect to rights and other legal relations; and it is to be liberally interpreted and administered.

Section 13. [Words Construed.] The word "person" wherever

used in this Act, shall be construed to mean any person, partnership, joint stock company, incorporated association, or society, or municipal or other corporation of any character whatsoever.

Section 14. [Commencement.] This Act shall be in force from and after the————day of————, 19—

Bynkershoek Doctrine as Applied to Sinking of Lusitania.—In holding that there was no liability, under a policy exempting death resulting from war, for drowning of insured, who was a passenger on the ill-fated Lusitania when she was sunk by a German submarine, the New York Supreme Court at Trial Term for New York county, in Vanderbilt *v.* Travelers' Ins. Co., 184 New York Supplement, 54, speaking through Mr. Justice McAvoy, said:

"In the broad sense the death of the insured on board the Lusitania must be conceded to be a result of war, because it came about in a contest conducted by armed public forces and during a state of affairs during the continuance of which the parties to the war were exercising force each against the other. Doubtless hostilities existing between the two nations may be confined in their nature and extent, and be limited as to places, persons, and things; but in the exercise of force by bodies politic against each other for the purpose of coercion, whether the contest is carried on by force or by deceit, or by means covered by rules of conduct which reason deduces as consonant to justice, which ought to regulate the political intercourse of nations both in peace and war, these limitations, designed to protect noncombatants, neutrals, and others wholly disassociated from the armed conflict itself, have been repeatedly offended against and flouted, even in civilized times by Christian sovereignties. It would appear that adherence is given the doctrine maintained by Bynkershoek in these instances, that everything done against the enemy is lawful; that he may be destroyed though unarmed and defenseless; that fraud, or even poison, may be employed against him; that the most unlimited right is acquired to his person and property; and that war admits of no limitations or restraint which any nation is bound to respect in its dealings with the other.

"In the narrower sense, war may be regarded as controlled within absolute law, which can be ascertained, applied, and enforced by a body of rules properly applicable as occasion arises, and that civilized nations have consented that this body of law should form the rules of their conduct in their relations with each other."

Napoleon and the Law.—To the lawyer—a fact almost ignored by the general public—there are two aspects of the character of Napoleon, the centenary of whose death occurred on May 5, with commemorations beyond the limits of France. In him we see the great

warrior and founder of civil order of a large portion of contemporary society, for it must be not forgotten that the codes of Napoleon, imposed on many European States in time of war, became the basis of, or were adopted by, these countries as their laws in time of peace. From this aspect Me. Henri Robert examines Napoleon's career in the *Revue de Paris* in an article entitled *Napoleon et la justice.* At St. Helena the *grand vaincu* said: "My true glory is not in having gained forty battles. Waterloo has effaced all the victories. That which nothing can efface and which will live forever is my civil code." Me. Henri Robert holds that the civil code was the first thought and the last preoccupation of the Consular Government, and that it was not a *banal* spectacle that this artillery officer, a general of thirty-two years, should be seen presiding over an assembly of learned lawyers, discussing with them technicalities for which it might have been considered he was but ill equipped. Napoleon's mentor was Tronchet, who had stood by the side of the venerable Malesherbes when pleading for the life of Louis XVI., and he counselled and toned down some of the views of Napoleon, who, however, in debate carried the high hand, checking digressions and bringing back the discussion to the immediate object. He would interject: "Is it useful? How was it done formerly? How is it done elsewhere?" But when he gave an opinion he gave it with all military firmness. He had some strongly picturesque fancies, an instance of whch was his intervention in the marriage laws proposals. The personal influence of the first consul succeeded in keeping the editors of the civil code in a spirit essentially moderate, practical, and reasonable, and it is in this that this work carries his mark. Me. Henri Robert considers that if the civil code owes much to the spirit of Bonaparte, it owes still more to his will, for without this will, which knew how to impose itself on others, this work without doubt would never have seen the light of day. Napoleon acquitted himself with the same ardour in the criminal codes of 1808 and 1810, the organization of the magistrature, and the re-establishment of the Bar. In struggle for the maintenance or suppression of the jury, perhaps for the first time in his life he showed hesitation. Strong reasons for the retention and suppression of this institution were urged, and he hesitated to excite regrets by suppressing it, yet at the same time he desired that the suppression of crime should be firmly assured. "They wish a jury," he concluded. "Let it be. But henceforth let it be presided over by high *magistrats.*" Me. Henri Robert concludes that, to judge Napoleon's action with equity, it is necessary to place side by side what he found and what he left: he had found a society completely disintegrated, nearly engulfed in anarchy, and, in a few years, he made arise new order out of disorder. In truth, this is sufficient for the glory of the man.—*Law Notes.*